

BILL ANALYSIS

Senate Research Center

H.B. 3180
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Criminal Justice
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Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Many retail and Internet pet sellers acquire their animals from commercial breeding facilities, which also sell directly to the public through newspaper and Internet ads. These facilities are sometimes false fronts for puppy or kitten mills. These mills do not provide adequate and humane care for the animals they are breeding, often failing to keep animals properly sheltered or to provide adequate veterinary attention and sometimes committing females to dangerous pregnancy cycles. Currently, limited regulations exist requiring these facilities to provide a minimum standard of care for the animals.

H.B. 3180 requires the licensing and regulation of commercial dog and cat breeders and dealers. The bill is not intended to impact hobby breeders and does not prohibit or hinder a commercial breeding facility or the sale of dogs and cats. Additionally, the bill establishes a committee to advise the Texas Commission of Licensing and Regulation on the adoption of rules and administrative and enforcement policies relating to commercial dog and cat breeders and dealers.

H.B. 3180 relates to the licensing and regulation of commercial dog and cat breeders and the regulation of dog and cat dealers and provides penalties.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the Texas Commission of Licensing and Regulation in SECTION 2 (Sections 802.051, 802.059, 802.201, and 802.251, Occupations Code) and SECTION 4 of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends the heading to Title 4, Occupations Code, to read as follows:

TITLE 4. PROFESSIONS RELATED TO ANIMALS

SECTION 2. Amends Title 4, Occupations Code, by adding Chapters 802 and 803, as follows:

CHAPTER 802. COMMERCIAL DOG AND CAT BREEDERS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 802.001. SHORT TITLE. Authorizes this chapter to be cited as the Commercial Dog and Cat Breeders Act.

Sec. 802.002. DEFINITIONS. Defines "adult animal," "advisory committee," "animal," "cat," "commercial breeder," "commission," "controlling person," "department," "dog," "executive director," "facility," "family member," "humane society," "intact female animal," "kitten," "local animal control authority," "possess," "puppy," "registered breeder inspector," and "veterinarian."

Sec. 802.003. APPLICABILITY OF CHAPTER. (a) Provides that this chapter does not affect the applicability of any other law, rule, order, ordinance, or other legal requirement of the federal government, this state, or a political subdivision of this state.

(b) Provides that this chapter does not prevent a municipality or county from prohibiting or further regulating by order or ordinance the possession, breeding, or selling of dogs or cats.

(c) Provides that this chapter does not apply to an animal regulated under The Texas Racing Act (Article 179e, V.T.C.S.).

[Reserves Sections 802.004-802.050 for expansion.]

SUBCHAPTER B. POWERS AND DUTIES OF COMMISSION AND DEPARTMENT

Sec. 802.051. GENERAL POWERS AND DUTIES; RULES. (a) Requires the Texas Department of Licensing and Regulation (TDLR) to administer this chapter.

(b) Requires the Texas Commission of Licensing and Regulation (commission) to adopt the rules necessary to enforce and administer this chapter, including rules to establish qualifications required for licensing under this chapter and establish qualifications and training for registered breeder inspectors.

Sec. 802.052. FEES. Requires the commission to establish reasonable and necessary fees in amounts sufficient to cover the costs of administering this chapter.

Sec. 802.053. PERSONNEL. Authorizes TDLR to employ personnel necessary to carry out the functions and duties of TDLR under this chapter.

Sec. 802.054. EXPENSES. Authorizes TDLR to authorize disbursements necessary to implement this chapter, including disbursements for office expenses, equipment costs, and other necessary facilities.

Sec. 802.055. CRIMINAL BACKGROUND CHECKS. (a) Requires TDLR to conduct a criminal background check on each applicant who submits an application for a license under this chapter and on any controlling person of the applicant. Authorizes TDLR to examine any criminal conviction, guilty plea, or deferred adjudication of an applicant for issuance or renewal of a license, including by obtaining any criminal history or record permitted by law.

(b) Provides that an applicant is not eligible for a license under this chapter if the applicant or any controlling person of the applicant has been convicted or received deferred adjudication for animal cruelty.

Sec. 802.056. INSURANCE REQUIREMENTS. Authorizes TDLR to set insurance requirements for a license holder under this chapter.

Sec. 802.057. DIRECTORY. Requires TDLR to maintain a directory of commercial breeders licensed under this chapter.

Sec. 802.058. CONTRACTS FOR ENFORCEMENT. Authorizes TDLR to contract with another state agency, a political subdivision of this state, a local animal control authority, or a registered breeder inspector to enforce this chapter and rules adopted under this chapter.

Sec. 802.059. INSPECTIONS AND INVESTIGATIONS. (a) Requires TDLR at least annually to inspect each facility of a licensed commercial breeder. Requires that the inspection be conducted during the facility's normal business hours and the commercial breeder or a representative of the commercial breeder is authorized to be present during the inspection. Provides that TDLR is not required to provide advance notice to the commercial breeder before arriving at the facility, but is required to contact the commercial breeder or representative on arrival at the facility and before proceeding with the inspection.

(b) Requires the inspector to submit an inspection report to TDLR not later than the 10th day after the date of the inspection on a form prescribed by TDLR and provide a copy of the report to the commercial breeder or the representative.

(c) Authorizes TDLR to contract with another state agency, a local animal control authority, or a registered breeder inspector to conduct or assist in an inspection or investigation. Authorizes the commission to adopt rules to establish methods by which another state agency, a local animal control authority, or a registered breeder inspector is authorized to conduct or assist in an inspection or investigation on behalf of TDLR.

(d) Authorizes TDLR, a local animal control authority, or a registered breeder inspector to access the facility of a commercial breeder whose license has been suspended, revoked, or denied to verify that the facility is not operating as a commercial breeding facility.

(e) Requires TDLR, a local animal control authority, a trained peace officer, or a registered breeder inspector designated by TDLR, on receipt of a written complaint alleging a violation of this chapter, to investigate the alleged violation.

Sec. 802.060. CONSUMER INTEREST INFORMATION. (a) Requires TDLR to prepare information of consumer interest describing the functions performed by TDLR under this chapter, and the rights of a consumer affected by this chapter.

(b) Requires that the information describe the procedure by which a consumer complaint is filed with and resolved by TDLR.

(c) Requires TDLR to make the information available to the public.

[Reserves Sections 802.061-802.100 for expansion.]

SUBCHAPTER C. DOG AND CAT BREEDERS ADVISORY COMMITTEE

Sec. 802.101. ADVISORY COMMITTEE MEMBERSHIP. Sets forth the composition of the Dog and Cat Breeders Advisory Committee (advisory committee).

Sec. 802.102. TERMS; VACANCY. (a) Provides that appointed advisory committee members serve staggered four-year terms. Provides that the terms of three or four appointed members expire on February 1 of each odd-numbered year.

(b) Requires that the vacancy, if a vacancy occurs during an appointed member's term, be filled for the remainder of the unexpired term in the manner provided by Section 802.101.

Sec. 802.103. PRESIDING OFFICER. Requires the presiding officer of the commission to designate one member of the advisory committee to serve as presiding officer of the advisory committee for a two-year term.

Sec. 802.104. COMPENSATION; REIMBURSEMENT. Provides that an advisory committee member serves without compensation but is entitled to reimbursement for actual and necessary expenses incurred in performing functions as an advisory committee member, subject to any applicable limitation on reimbursement provided by the General Appropriations Act and TDLR's budget.

Sec. 802.105. MEETINGS. Requires the advisory committee to meet at least once annually and authorizes the advisory committee to meet at other times at the call of the presiding officer of the commission or the executive director of TDLR (executive director).

Sec. 802.106. MEMBERSHIP ELIGIBILITY. Prohibits a person, except for the member representing the interests of commercial breeders as provided by Section

802.101(2) (relating to the provision that the advisory committee include one member who represents the interests of commercial breeders), from being a member of the advisory committee if the person or the person's family member is required to be licensed under this chapter; is employed by or participates in the management of a business entity or other organization required to be licensed under this chapter; owns or controls, directly or indirectly, more than a 10 percent interest in a business entity or other organization required to be licensed under this chapter; or is an attorney, lobbyist, or veterinarian employed by or under a service contract with a person required to be licensed under this chapter.

Sec. 802.107. **ADVISORY COMMITTEE DUTIES.** (a) Requires the advisory committee to advise the commission in adopting rules and in administering and enforcing this chapter.

(b) Requires the advisory committee to advise the commission in setting fees under this chapter.

Sec. 802.108. **VOTE REQUIRED FOR ACTION.** Provides that a decision of the advisory committee is not effective unless it receives the affirmative vote of at least a majority of the members present.

Sec. 802.109. **APPLICABILITY OF OTHER LAW.** Provides that Chapter 2110 (State Agency Advisory Committees), Government Code, does not apply to the advisory committee.

[Reserves Sections 802.110-802.150 for expansion.]

SUBCHAPTER D. LICENSING OF COMMERCIAL BREEDERS

Sec. 802.151. **LICENSE REQUIRED; QUALIFICATIONS.** (a) Prohibits a person from acting, offering to act, or holding the person out as a commercial breeder in this state unless the person holds a commercial breeder license under this subchapter for each facility that the person owns or operates in this state.

(b) Authorizes a commercial breeder license for a single facility to cover more than one building on the same premises.

(c) Authorizes the commission to adopt educational or training qualifications required for issuance or renewal of a license under this subchapter as necessary to protect the public health and safety.

Sec. 802.152. **APPLICATION.** (a) Requires an applicant for a license under this subchapter to submit to TDLR a completed application on a form prescribed by TDLR, submit to TDLR any other information regarding the applicant's facilities and operations as required by rule, demonstrate to the satisfaction of TDLR the qualifications required by this chapter and rules adopted under this chapter, and pay the application fee.

(b) Requires that a license application include a place for the applicant to:

(1) indicate whether the applicant's facility will operate under more than one name and, if so, each name under which the applicant will operate;

(2) indicate whether the applicant has an ownership interest in any other facility and the name and location of each facility in which the applicant has an interest;

(3) provide the number and breed of all adult animals that will be kept, housed, and maintained by the applicant at the facility and the estimated number of puppies or kittens to be kept, housed, and maintained at the facility during the term of the license;

(4) state whether a license held by an applicant under this subchapter or under another federal, state, county, or local law, ordinance, or other regulation relating to breeding, selling, dealing in, or handling dogs or cats has been suspended or revoked and whether a license application has been denied; and

(5) state whether the applicant has been charged with animal cruelty or neglect in any jurisdiction and, for an applicant that is a partnership, corporation, or limited liability company, whether any controlling person of the applicant has been charged with animal cruelty or neglect in this or any other jurisdiction.

Sec. 802.153. INITIAL PRELICENSE INSPECTION. (a) Requires TDLR to inspect a facility before an initial commercial breeder license is issued for that facility.

(b) Authorizes TDLR to contract with a local animal control authority or a registered breeder inspector to conduct or assist in an initial prelicense inspection.

(c) Prohibits TDLR from issuing a commercial breeder license until TDLR receives an initial prelicense inspection report from the inspector in a format approved by TDLR certifying that the facility meets the requirements of this chapter and rules adopted under this chapter.

(d) Requires each applicant, before the initial prelicense inspection is authorized to be conducted, to pay to TDLR a nonrefundable inspection fee.

Sec. 802.154. ISSUANCE. Requires TDLR to issue a commercial breeder license to each commercial breeder who meets the requirements of this chapter and rules adopted under this chapter, applies to TDLR on the form prescribed by TDLR, and pays the required fee.

Sec. 802.155. TERM. Provides that a license issued under this subchapter is valid until the first anniversary of the date of issuance and is nontransferable. Requires TDLR to include the expiration date on each license issued under this subchapter.

Sec. 802.156. LICENSE DENIAL. Authorizes TDLR to deny a license to an applicant who fails to meet the standards of care adopted by the commission under Subchapter F, has been convicted of or received deferred adjudication for cruelty to animals under the laws of this state or any other jurisdiction or, for an applicant that is a partnership, corporation, or limited liability company, has a controlling person who has been convicted of or received deferred adjudication for cruelty to animals under the laws of this state or any other jurisdiction; has had a similar license by a federal, state, or local authority denied, revoked, or suspended; has falsified any material information requested by TDLR; or was an owner or controlling person of a commercial breeder whose license was revoked or suspended and was responsible for or participated in the violation that resulted in a revocation or suspension that is still in effect.

Sec. 802.157. LICENSE RENEWAL. (a) Authorizes a license holder to renew the person's license by submitting a renewal application to TDLR on the form prescribed by TDLR, complying with any other renewal requirements adopted by TDLR, and paying the required fee.

(b) Prohibits a person whose license has expired from engaging in activities that require a license until the license has been renewed.

(c) Requires TDLR, not later than the 60th day before the expiration of the person's license, to send written notice of the impending license expiration to the person at the person's last known address according to the records of TDLR.

[Reserves Sections 802.158-802.200 for expansion.]

SUBCHAPTER E. PRACTICE BY LICENSE HOLDER

Sec. 802.201. DISPLAY OF LICENSE; INCLUSION OF LICENSE NUMBER AND DEPARTMENT INFORMATION. Requires a commercial breeder to prominently display a copy of the commercial breeder license at the breeder's facility, include the commercial breeder's license number in each advertisement for the sale or transfer of an animal by the commercial breeder, and include in each contract for the sale or transfer of an animal by the commercial breeder the commercial breeder's license number and the following statement: "Commercial breeders are regulated by the Texas Department of Licensing and Regulation, P.O. Box 12157, Austin, Texas 78711, 1-800-803-9202, 512-463-6599" or a similar statement adopted by commission rule that includes TDLR's name, address, and phone numbers.

Sec. 802.202. CHANGE IN LICENSE INFORMATION. Requires a commercial breeder to notify TDLR in a manner prescribed by the commission not later than the 10th day after the date any change occurs in the address, name, management, substantial control, or ownership of the business or operation.

Sec. 802.203. ANNUAL REPORT. (a) Require a commercial breeder, not later than February 1 of each year, to submit to TDLR an annual report on a form and in the manner prescribed by TDLR

(b) Requires the commercial breeder to keep a copy of the annual report at the commercial breeder's facility and, on request, make the report available to TDLR, a local animal control authority, or a registered breeder inspector designated by TDLR.

(c) Requires a license holder that has more than one facility to keep separate records and file a separate report for each facility.

Sec. 802.204. ANIMAL LOG. (a) Requires a commercial breeder to maintain a separate written log for each animal documenting the animal's veterinary care, and make the log available on request to TDLR, a local animal control authority, or a registered breeder inspector designated by TDLR.

(b) Requires that the log include the date of the animal's birth, the date the commercial breeder took possession of the animal if the animal was acquired from another person, the breed, sex, color, and identifying marks of the animal, the animal's identifying tag, tattoo, microchip, or collar number, the name and, if applicable the breed registry number of the sire and dam of the animal, and a record of all inoculations, medications, and other veterinary medical treatment received by the animal while in the possession of the commercial breeder that includes the date of the inoculation, medication, or treatment, the type of nature of the inoculation, medication, or treatment, and the name of the attending veterinarian, if applicable.

Sec. 802.205. LIMIT ON NUMBER OF INTACT ANIMALS. Prohibits a commercial breeder from possessing more than 50 adult intact female animals in a facility at any time.

[Reserves Sections 802.206-802.250 for expansion.]

SUBCHAPTER F. STANDARDS OF CARE AND CONFINEMENT

Sec. 802.251. ADOPTION OF STANDARDS. (a) Requires the commission, in accordance with this subchapter and with the advice of the advisory committee, to adopt rules for the proper feeding, watering, housing, care, including veterinary care, grooming, treatment, transportation, and disposition of dogs and cats by a commercial breeder to ensure the overall health and welfare of each animal in the commercial breeder's facility.

(b) Requires the standards adopted under this section at a minimum to:

- (1) require animals to be offered food at least once every 24 hours and to have continuous access to water unless otherwise prescribed by a veterinarian;
- (2) provide for safe and adequately sized indoor and outdoor confinement areas;
- (3) require daily removal of animal waste;
- (4) include requirements for exercise, grooming, and bathing;
- (5) include requirements for socialization through physical contact between animals and humans;
- (6) include requirements to address disease and illness;
- (7) require methods of transporting animals that protect the health and welfare of the animals; and
- (8) include requirements for adequate training of staff.

(c) Requires that the standards adopted under this section prohibit a commercial breeder from housing females in estrus with unneutered males, except for breeding purposes; the placement of a primary enclosure on top of another primary enclosure without an impervious barrier between enclosures; the tethering or leashing of animals in a facility as a means of confinement; and a commercial breeder from selling, trading, or giving away an animal before the animal is six weeks of age.

Sec. 802.252. **ADDITIONAL STANDARDS.** Authorizes the commission to establish any additional standards considered necessary to protect the public health and the welfare of animals covered under this chapter.

Sec. 802.253. **CONSIDERATION OF ANIMAL HEALTH AND WELFARE STANDARDS.** Requires the commission, in adopting standards under this subchapter, to consider relevant state, federal, and nationally recognized standards for animal health and welfare.

[Reserves Sections 802.254-802.300 for expansion.]

SUBCHAPTER G. ENFORCEMENT

Sec. 802.301. **DISCIPLINARY ACTION.** Provides that a person is subject to disciplinary action under Subchapter G (Other Penalties and Enforcement Provisions), Chapter 51 (Texas Department of Licensing and Regulation), if the person violates this chapter or a rule adopted under this chapter.

Sec. 802.302. **SUSPENSION AND REVOCATION OF LICENSE; REFUSAL TO RENEW LICENSE.** (a) Authorizes TDLR to suspend, revoke, or refuse to renew a license for:

- (1) a violation of this chapter or a rule adopted under this chapter;
- (2) failure to comply with an order of the commission or the executive director;
- (3) failure to pay a civil penalty under this chapter;
- (4) failure to meet a standard of care adopted by the commission under Subchapter F;

(5) failure to comply with any corrective action required under an inspection report in the time provided by the report;

(6) falsification of information requested by TDLR;

(7) the denial, revocation, or suspension of a similar license by another federal, state, or local authority; or

(8) conviction or deferred adjudication for animal cruelty under the laws of this state or any other jurisdiction by a commercial breeder or any controlling person.

(b) Prohibits a person whose commercial breeder license is revoked from reapplying for a commercial breeder license before the first anniversary of the date of revocation. Requires TDLR to permanently revoke a commercial breeder license if the basis for the revocation was a conviction or deferred adjudication for animal cruelty.

Sec. 802.303. ADMINISTRATIVE SANCTIONS; ADMINISTRATIVE PROCEDURE.

(a) Requires the commission to revoke, suspend, or refuse to renew a license or is required to reprimand a license holder for a violation of this chapter or a rule or order of the commission under this chapter.

(b) Authorizes the commission to place on probation a person whose license is suspended. Authorizes the commission, if a license suspension is probated, to require the person to report regularly to TDLR on matters that are the basis of the probation.

(c) Entitles a respondent to a hearing conducted by the State Office of Administrative Hearings if TDLR proposes to deny, suspend, or revoke a license.

(d) Provides that a proceeding under this chapter to deny, suspend, or revoke a license is a contested case under Chapter 2001, Government Code.

Sec. 802.304. INJUNCTIVE RELIEF; CIVIL PENALTY. (a) Authorizes the attorney general or the executive director to institute an action for injunctive relief to restrain a violation by and to collect a civil penalty from a person that appears to be in violation of or threatening to violate this chapter or a rule or order of the commission or executive director under this chapter.

(b) Requires that an action filed under this section be filed in a district court in Travis County.

(c) Authorizes the attorney general and TDLR to recover reasonable expenses incurred in obtaining injunctive relief under this section including court costs, reasonable attorney's fees, investigative costs, witness fees, and deposition expenses.

Sec. 802.305. CEASE AND DESIST; EMERGENCY ORDER. (a) Authorizes the executive director to issue a cease and desist order as necessary to enforce this chapter if the executive director determines that the action is necessary to prevent a violation of this chapter and to protect public health and safety.

(b) Authorizes the executive director to issue an emergency order as necessary to enforce this chapter if the executive director determines that an emergency exists requiring immediate action to protect the public health and safety. Authorizes the executive director to issue the emergency order without notice and hearing or with any notice and hearing the executive director considers practicable under the circumstances. Requires the executive director to set the time and place for a

hearing to affirm, modify, or set aside an emergency order that was issued without a hearing.

Sec. 802.306. CRIMINAL OFFENSES AND PENALTIES. (a) Provides that a person commits an offense if the person violates this chapter or any rule adopted under this chapter. Provides that each animal to which a violation applies and each day that violation continues constitutes a separate offense. Provides that an offense under this subsection is a Class C misdemeanor.

(b) Provides that a person commits an offense if the person knowingly falsifies information in a license application, annual report, or record required under this chapter. Provides that an offense under this subsection is a Class C misdemeanor.

(c) Provides that an unlicensed commercial breeder commits an offense if the breeder advertises animals for sale. Provides that an offense under this subsection is a Class C misdemeanor.

(d) Provides that a commercial breeder commits an offense if the commercial breeder interferes with, hinders, or thwarts any inspection or investigation under this chapter or refuses to allow an inspector full access to all areas of the facility where animals are kept or cared for and all records required to be kept under this chapter or any rule adopted under this chapter. Provides that an offense under this subsection is a Class C misdemeanor.

CHAPTER 803. DOG AND CAT DEALERS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 803.001. SHORT TITLE. Authorizes this chapter to be cited as the Dog and Cat Dealers Act.

Sec. 803.002. DEFINITIONS. Defines "animal," "breeder," "broker," "cat," "commercial breeder," "dealer," "dog," "health problem," "humane society," "kitten," "local animal control authority," "possess," "puppy," and "veterinarian."

Sec. 803.003. APPLICABILITY OF CHAPTER. (a) Provides that this chapter does not affect the applicability of any other law, rule, order, ordinance, or other legal requirement of the federal government, this state, or a political subdivision of this state.

(b) Provides that this chapter does not prevent a municipality or county from prohibiting or further regulating by order or ordinance the selling of dogs or cats.

[Reserves Sections 803.004-803.050 for expansion.]

SUBCHAPTER B. RETAIL SALES OF DOGS AND CATS

Sec. 803.051. DISCLOSURE. (a) Requires each dealer, at the time of purchase, to deliver to each retail purchaser of an animal a written disclosure that includes the following:

- (1) the breeder's name and address;
- (2) the name and address of any broker who has had possession of the animal;
- (3) the date of the animal's birth;
- (4) if the dealer is not the breeder, the date the dealer received the animal;
- (5) the breed, sex, color, and identifying marks of the animal;

- (6) the individual identifying tag, tattoo, microchip, or collar number;
- (7) the name and, if applicable, the breed registry number of the sire and dam and the litter number; and
- (8) a record of inoculations, worming treatments, and medication received by the animal while in the possession of the dealer.

(b) Requires that the written disclosure include a statement signed by the dealer that the animal does not have any known health problem or that discloses any known health problem, and a statement signed by a veterinarian that lists any treatments the animal has received and any recommendations for future treatment.

(c) Provides that the written disclosure required under this section is a part of the purchaser rights required under this subchapter.

(d) Provides that except as provided by this subsection, a written disclosure is not required for a mixed breed animal if the information is not available and cannot be determined by the dealer. Requires the dealer to disclose all known health problems and medical records of a mixed breed animal.

Sec. 803.052. RECORDS. Requires the dealer to retain until the first anniversary of the date of issuance a copy of the statement of purchaser rights delivered to the retail purchaser.

Sec. 803.053. REGISTRATION. (a) Requires a dealer who represents an animal as eligible for registration with an animal pedigree organization, not later than the 90th day after the date the final payment is received, to provide to the retail purchaser the documents necessary for registration with the organization.

(b) Authorizes the purchaser, if the dealer fails to provide the registration documents to the retail purchaser as required by Subsection (a), to retain the animal and receive a refund of 50 percent of the purchase price of the animal, or return the animal and all documentation previously provided to the purchaser and receive a full refund of the purchase price.

(c) Provides that the dealer is not responsible for delays in registration that are the result of the actions or inaction of persons other than the dealer.

Sec. 803.054. EXAMINATION BY VETERINARIAN. Prohibits a dealer from offering an animal for sale to a retail purchaser unless the animal has been examined by a veterinarian.

Sec. 803.055. RIGHTS OF PURCHASER. (a) Provides that an animal is considered unfit for sale by a dealer if a veterinarian states in writing not later than the 20th day after the date a purchaser takes possession of an animal that the animal has a health problem that existed in the animal at the time of delivery, or a veterinarian states in writing not later than the first anniversary of the date that a purchaser took possession of an animal that the animal died or is ill due to a hereditary or congenital defect, or is not the breed the dealer represented the animal to be to the purchaser.

(b) Requires the dealer, if the dealer misrepresents the breed of the animal to the purchaser, to provide to the purchaser one of the following remedies selected by the purchaser: return of the animal to the dealer for a refund of the full purchase price, or exchange of the animal for an animal of the breed represented by the dealer to the purchaser, provided the dealer has an animal of that breed available for sale.

(c) Requires the dealer, if an animal dies due to a health problem that existed in the animal at the time the purchaser took possession of the animal, to provide to the purchaser one of the following remedies selected by the purchaser: another

animal of equal value, if available, and reimbursement of all reasonable veterinary fees incurred by the purchaser for the deceased animal, not to exceed 300 percent of the purchase price of the animal; or a refund of the full purchase price and reimbursement of all reasonable veterinary fees incurred by the purchaser for the deceased animal, not to exceed 300 percent of the purchase price of the animal.

(d) Requires the dealer, if a health problem existed at the time the purchaser took possession of the animal, to provide to the purchaser one of the following remedies selected by the purchaser: return of the animal to the dealer for a refund of the full purchase price; exchange of the animal with a health problem for another animal of the purchaser's choice of equivalent value, provided a replacement is available; or retention of the animal with a health problem by the purchaser for a reasonable period of time and reimbursement of reasonable veterinary fees, not to exceed 300 percent of the purchase price of the animal.

(e) Provides that the price of a veterinary service is considered reasonable if the service is appropriate for the diagnosis and treatment of the health problem and the price for the service is comparable to a similar service rendered by other veterinarians in proximity to the treating veterinarian.

Sec. 803.056. RESPONSIBILITIES OF PURCHASER. (a) Requires the retail purchaser of an animal with a health problem, to be eligible for the remedies provided in Section 803.055, to notify the dealer not later than the fifth business day after the date a veterinarian diagnoses a health problem, and provide the dealer with the name and telephone number of the veterinarian and a copy of the veterinarian's report on the animal.

(b) Requires a retail purchaser who is seeking a full refund of the purchase price of an animal to return the animal to the dealer not later than the fifth business day after the date the purchaser receives a written statement from a veterinarian indicating that the animal is unfit due to a health problem.

(c) Requires the retail purchaser, if an animal has died, to provide the dealer with a written statement from a veterinarian indicating that the animal died from a health problem that existed on or before the date the purchaser took possession of the animal.

Sec. 803.057. RIGHTS OF DEALER. Provides that a dealer is not required to provide a refund, replacement, or reimbursement of veterinary fees if one or more of the following conditions exist:

(1) the health problem or death resulted from maltreatment, neglect, or a disease contracted while in the possession of the purchaser or from an injury sustained after delivery of the animal to the purchaser;

(2) a veterinarian's statement was provided to the purchaser under Section 803.051 that disclosed the health problem for which the purchaser seeks to return the animal; or

(3) the purchaser failed to provide to the animal a treatment recommended by the examining veterinarian under Section 803.051.

Sec. 803.058. CONTEST OF RELIEF; CIVIL ACTION. (a) Authorizes a dealer seeking to contest a demand for relief specified in Section 803.053 or 803.055 to require the retail purchaser to produce the animal for examination or necropsy by a veterinarian designated by the dealer. Requires the dealer to pay the cost of the examination or necropsy. Provides that the dealer has a right of recovery against the purchaser if the dealer is not obligated to provide a remedy under Section 803.055.

(b) Authorizes the purchaser, if the dealer does not provide the relief selected by the retail purchaser under Section 803.053 or 803.055, to bring a civil action

against the dealer. Provides that the prevailing party in the civil action has the right to recover costs and reasonable attorney's fees.

Sec. 803.059. **POSTING OF PURCHASER RIGHTS NOTICE.** Requires each dealer to post in a prominent location in the dealer's facility a notice, in 48-point boldfaced type, that states the following: "Information is available on each dog or cat sold by this establishment. You are entitled to a statement of purchaser rights related to the sale of a dog or cat by this establishment. Please ensure that you receive this statement at the time you purchase a dog or cat."

Sec. 803.060. **STATEMENT ACKNOWLEDGING RECEIPT OF PURCHASER RIGHTS.** (a) Requires each dealer to provide each retail purchaser with a written statement of the purchaser's rights under this chapter. Requires the purchaser to sign an acknowledgment that the purchaser received the statement and has reviewed the statement. Requires the dealer to certify in writing the accuracy of the information contained in the statement. Requires the dealer to retain a copy of the signed acknowledgment and provide a copy of the signed acknowledgment to the purchaser.

(b) Requires that the statement of purchaser rights be in 16-point boldfaced type as follows: "STATEMENT OF TEXAS LAW GOVERNING SALE OF DOGS AND CATS: The sale of dogs and cats is subject to consumer protection regulations. Texas law also provides safeguards to protect dealers and animal purchasers. Attached is a copy of Subchapter B, Chapter 803, Occupations Code. Contained in this law is a statement of your purchaser rights. These rights are not your exclusive rights and do not limit the rights or remedies available to you as a purchaser under any other law."

(c) Requires that the statement of purchaser rights contain or have attached to the statement the disclosures required under Section 803.051.

Sec. 803.061. **LIMITATION; WAIVER PROHIBITED.** (a) Requires that nothing in this chapter limit the rights or remedies otherwise available to a purchaser under any other law.

(b) Provides that an agreement or contract by a purchaser to waive any rights under this chapter is null, void, and unenforceable.

[Reserves Sections 803.062-803.100 for expansion.]

SUBCHAPTER C. OFFENSES AND PENALTIES

Sec. 803.101. **CRIMINAL OFFENSE FOR ACQUIRING ANIMAL FROM UNLICENSED COMMERCIAL BREEDER.** Provides that a broker or dealer commits an offense if the broker or dealer knowingly acquires a dog or cat from an unlicensed commercial breeder for the purpose of reselling the dog or cat to another person. Provides that each animal to which a violation applies constitutes a separate offense. Provides that an offense under this section is a Class C misdemeanor. Provides that it is a defense to prosecution for an offense under this section that the dealer was a humane society or a local animal control authority.

Sec. 803.102. **CRIMINAL OFFENSE FOR SELLING YOUNG ANIMALS.** Provides that a dealer commits an offense if the dealer sells an animal under the age of eight weeks to another person. Provides that each animal to which a violation applies constitutes a separate offense. Provides that an offense under this section is a Class C misdemeanor. Provides that it is a defense to prosecution for an offense under this section that the dealer was a humane society or a local animal control authority.

SECTION 3. Requires TDLR, not later than December 31, 2009, to appoint the members of the advisory committee in accordance with Chapter 802, Occupations Code, as added by this Act. Requires the commission, in making the initial appointments, to designate three members for terms expiring February 1, 2011, and four members for terms expiring February 1, 2013.

SECTION 4. Requires the commission, not later than June 1, 2010, to adopt the rules, standards, procedures, and fees necessary to implement Chapter 802, Occupations Code, as added by this Act, and Section 5 of this Act.

SECTION 5. Provides that notwithstanding Chapter 802, Occupations Code, as added by this Act, a commercial breeder is not required to hold a license under that chapter to act as a commercial breeder before September 1, 2010, or comply with the standards adopted under Subchapter F, Chapter 802, Occupations Code, as added by this Act, before September 1, 2010.

SECTION 6. Makes application of this Act prospective.

SECTION 7. Effective date: upon passage or September 1, 2009.